

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of
Amendment of the Commission's *Ex*
Parte Rules and Other Procedural Rules

GC Docket No. 10-43

REPLY COMMENTS OF AT&T INC.

AT&T Inc. (AT&T) files these reply comments in response to the Commission's Notice of Proposed Rulemaking.¹

DISCUSSION

In its initial comments, AT&T expressed considerable skepticism about proposals that inflated the burdens of the *ex parte* rules without really improving the openness, transparency, or effectiveness of the Commission's rulemaking processes. To that end, AT&T generally opposed or questioned the wisdom of requiring expanded *ex parte* filings summarizing "all data and arguments" made during oral presentations (revision to Rule 1.1206), disclosure statements, and new sanctions for *ex parte* rule violations.² Other commenters raised similar issues.³ Some commenters, however, saw fit to propose unnecessarily burdensome changes to the *ex parte* rules that would not appropriately balance the need for openness and transparency with the need of the Commission and its staff to dialogue with interested persons on pending issues.

Some commenters have recommended that oral *ex parte* presentations in permit-but-disclose proceedings be recorded by either video or digital audio means.⁴ The state of oral *ex parte* presentations has not deteriorated to the point that this sort of radical remedy is needed. In

¹ *Amendment of the Commission's Ex Parte Rules and Other Procedural Rules, Notice of Proposed Rulemaking*, 25 FCC Rcd 2403 (2010) (*Notice*).

² Comments of AT&T Inc., pp. 1-2 (revision to Rule 1.1206), 3-5 (disclosure statements), 6 (new sanctions).

³ Comments of Independent Telephone & Telecommunications Alliance (ITTA), pp. 2-3; Comments of National Telecommunications Cooperative Association (NTCA), pp. 9-10; Comments of Qwest Corporation (Qwest), pp. 7-9; Comments of Sprint Nextel (sprint), pp. 7-9.

⁴ Comments of Media Access Project (MAP), p. 2 (audio); Comments of Public Knowledge and Consumer Federation of America (Public Knowledge), pp. 5-6 (video); Comments of Pierre DeVries, pp. 10-11 (audio).

addition to the obvious issues of costs and logistics, there are the prickly issues of storage and availability. Creating, maintaining, and accessing a video or audio library of *ex parte* presentations would be extremely challenging. Absent real evidence of an oral *ex parte* process gone woefully awry, the Commission would be wise to avoid such an extreme remedy at this time.

This would be equally true for the recommendation to accompany each *ex parte* filing with “a log of the party’s other *ex parte* filings in the docket.”⁵ This requirement is wholly unnecessary, especially as the Commission’s newly improved Electronic Comment Filing System (ECFS) allows interested persons to find filed comments and *ex parte* statements by docket and by commenters’ names. If the ECFS were less user friendly, this proposal might have some merit. But given the improvements to the system, this proposal has been rendered obsolete.

AT&T supports the comments of those parties who argue that new or alternative media (*e.g.*, Facebook, Myspace, IdeaScale, Flickr, Twitter, RSS feeds, YouTube, *etc.*) should not be exempt from the traditional *ex parte* rules.⁶ The comments of the National Telecommunications Cooperative Association are particularly helpful in this regard:

Wading through the enormous amount of blog information submitted on the NBP [National Broadband Plan] blog, however, has demonstrated how difficult monitoring all filings can be in large proceedings. Being able to monitor and respond to all arguments in blogs whose contents are considered part of the official record can become overwhelming and nearly impossible. Appellate review of blog content can equally feel the strain of determining whether the agency’s determinations rest on sound evidentiary proof. For these reasons, the Commission should not permit blog material for rulemaking proceedings.... Perhaps a more effective use of blog material is during notices of inquiry, where the purpose of the proceeding is to gather information, and not during rulemaking proceedings.⁷

In short, in keeping with the Administrative Procedure Act and due process of law, there has to be a way to disclose to the public the content of communications to the Commission when those

⁵ Comments of the National Association of State Utility Consumer Advocates (NASUCA), p. 4.

⁶ NTCA, p. 11; Qwest, pp. 9-10; Comments of Verizon and Verizon Wireless (Verizon), p. 5.

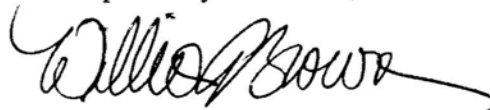
⁷ NTCA, p. 11.

communications form the basis of the Commission's actions.⁸ This applies equally to blogs and other alternative media.

CONCLUSION

The quickest way to improve openness, transparency, and effectiveness in the rulemaking process is to improve compliance with existing *ex parte* rules. AT&T agrees with the GAO report on FCC Management—one of the best ways to improve compliance is to get Commission officials involved proactively to ensure that *ex parte* summaries are complete and accurate.⁹ This proactive role for the Commission staff and officials who participate in oral communications will do more to improve the process than any of the other proposals made by the Commission or the interested parties participating in this docket.

Respectfully submitted,



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⁸ Home Box Office v. FCC, 567 F.2d 9, 57 (D.C. Cir. 1977); 5 U.S.C. § 533.

⁹ GAO, *FCC MANAGEMENT, Improvements Needed in Communication, Decision-Making Processes, and Workforce Planning*, GAO-10-79, at 47-48 (Dec. 2009) (“To improve the transparency and effectiveness of the decision-making process, we recommend that the FCC take the following ... action[]: ...Revise its *ex parte* policies to include ... clarifying FCC officials’ roles in ensuring the accuracy of *ex parte* summaries and establish a proactive review process of these summaries;”).

CERTIFICATE OF SERVICE

I, Toyin Harris, do hereby certify that on this 8th day of June 2010 a copy of the foregoing "Reply Comments of AT&T Inc." **GC docket No. 10-43** was served via U.S. first class mail, postage paid, to the parties listed below:

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